

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIKA E. MILLER,

Plaintiff,

Case No: 1:14-cv-714

v.

HON. JANET T. NEFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

Plaintiff seeks judicial review of a decision of the Commissioner of the Social Security Administration. 42 U.S.C. § 405(g). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R) (Dkt 12), recommending that this Court affirm the Commissioner's decision to deny Plaintiff's claim for Disability Insurance Benefits (DIB) under Title II of the Social Security Act. The matter is now before the Court on Plaintiff's Objections to the R & R (Dkt 13). Defendant has filed a Response (Dkt 14). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the R & R to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff objects to the Magistrate Judge's conclusions that the Administrative Law Judge (ALJ): (1) properly weighed the medical evidence, and (2) properly evaluated Plaintiff's credibility. With regard to the first objection, Plaintiff argues that the ALJ selectively referenced the treatment notes to discount the opinions of treating pain management specialist Dr. Mankoff and treating physician Dr. Hazle (Objs. at Page ID# 458). She contends that the treating doctors provided

extensive clinical and diagnostic abnormalities to support their opinions, and that the Magistrate Judge, and the ALJ, “failed to appreciate the record as a whole that did not contain substantial evidence contradicting the opinions from the treating doctors …” (*id.* at Page ID# 459).

This objection essentially reasserts the same arguments Plaintiff raised in her brief before the Magistrate Judge, i.e., that the ALJ failed to follow the treating physician rule (Dkt 10 at Page ID# 414). As Defendant observes in its response (Dkt 14 at Page ID# 465), such duplication defeats the purpose the Federal Magistrate’s Act, 28 U.S.C. § 636, which is to “relieve courts of unnecessary work.” *See Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991). An “objection” that merely “restates the arguments previously presented is not sufficient to alert the court to alleged errors on the part of the magistrate judge.” *VanDiver v. Martin*, 304 F. Supp. 2d 934, 937 (E.D. Mich. 2004); *see also Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995).

Likewise, Plaintiff’s second objection reiterates her argument in her initial brief that the ALJ failed to properly evaluate Plaintiff’s credibility (Dkt 10 at Page ID# 419) in concluding that Plaintiff was not credible based on her purported noncompliance with physical therapy, and failing to apply the required legal analysis for denying benefits based on noncompliance. However, the Magistrate Judge properly concluded that the ALJ’s decision to discount Plaintiff’s credibility was supported by substantial evidence, including that Plaintiff’s reported activities were not consistent with her allegations of “extreme functional limitation” (R & R at Page ID# 454). Contrary to Plaintiff’s contentions, nothing indicates that this determination was based on an incorrect assessment of Plaintiff’s statements or her activities of daily living.

The Magistrate Judge thoroughly considered Plaintiff’s initial arguments in light of the record and the governing law. Plaintiff’s objections demonstrate no factual or legal error in the

Magistrate Judge's analysis. Plaintiff sets forth no argument to warrant rejecting either the Magistrate Judge's determination that the ALJ's decision adheres to the proper legal standards and is supported by substantial evidence, or her ultimate conclusion recommending that the Commissioner's decision be affirmed (R&R, Dkt 12 at Page ID# 456).

For the reasons stated in the R & R, the Commissioner's decision is properly affirmed. Accordingly, the Court will adopt the Magistrate Judge's Report and Recommendation as the Opinion of this Court and enter a Judgment consistent with this Opinion and Order. *See FED.R.CIV.P. 58.*

THEREFORE, IT IS ORDERED that the Objections (Dkt 13) are DENIED, and the Report and Recommendation (Dkt 12) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is AFFIRMED.

Dated: August 25, 2015

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge